



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB5008

Introduced 2/18/2020, by Rep. Rita Mayfield

#### SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-915

Amends the Juvenile Court Act of 1987. Provides that in case of records that are not subject to automatic expungement, includes a felony or any misdemeanor adjudication (rather than only a Class B misdemeanor, Class C misdemeanor adjudication) for which a person may petition the court at any time for expungement of juvenile law enforcement records and juvenile court records relating to the incident.

LRB101 19280 RLC 68746 b

1 AN ACT concerning courts.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Juvenile Court Act of 1987 is amended by  
5 changing Section 5-915 as follows:

6 (705 ILCS 405/5-915)

7 Sec. 5-915. Expungement of juvenile law enforcement and  
8 juvenile court records.

9 (0.05) (Blank).

10 (0.1) (a) The Department of State Police and all law  
11 enforcement agencies within the State shall automatically  
12 expunge, on or before January 1 of each year, all juvenile law  
13 enforcement records relating to events occurring before an  
14 individual's 18th birthday if:

15 (1) one year or more has elapsed since the date of the  
16 arrest or law enforcement interaction documented in the  
17 records;

18 (2) no petition for delinquency or criminal charges  
19 were filed with the clerk of the circuit court relating to  
20 the arrest or law enforcement interaction documented in the  
21 records; and

22 (3) 6 months have elapsed since the date of the arrest  
23 without an additional subsequent arrest or filing of a

1 petition for delinquency or criminal charges whether  
2 related or not to the arrest or law enforcement interaction  
3 documented in the records.

4 (b) If the law enforcement agency is unable to verify  
5 satisfaction of conditions (2) and (3) of this subsection  
6 (0.1), records that satisfy condition (1) of this subsection  
7 (0.1) shall be automatically expunged if the records relate to  
8 an offense that if committed by an adult would not be an  
9 offense classified as Class 2 felony or higher, an offense  
10 under Article 11 of the Criminal Code of 1961 or Criminal Code  
11 of 2012, or an offense under Section 12-13, 12-14, 12-14.1,  
12 12-15, or 12-16 of the Criminal Code of 1961.

13 (0.15) If a juvenile law enforcement record meets paragraph  
14 (a) of subsection (0.1) of this Section, a juvenile law  
15 enforcement record created:

16 (1) prior to January 1, 2018, but on or after January  
17 1, 2013 shall be automatically expunged prior to January 1,  
18 2020;

19 (2) prior to January 1, 2013, but on or after January  
20 1, 2000, shall be automatically expunged prior to January  
21 1, 2023; and

22 (3) prior to January 1, 2000 shall not be subject to  
23 the automatic expungement provisions of this Act.

24 Nothing in this subsection (0.15) shall be construed to  
25 restrict or modify an individual's right to have his or her  
26 juvenile law enforcement records expunged except as otherwise

1 may be provided in this Act.

2 (0.2) (a) Upon dismissal of a petition alleging delinquency  
3 or upon a finding of not delinquent, the successful termination  
4 of an order of supervision, or the successful termination of an  
5 adjudication for an offense which would be a Class B  
6 misdemeanor, Class C misdemeanor, or a petty or business  
7 offense if committed by an adult, the court shall automatically  
8 order the expungement of the juvenile court records and  
9 juvenile law enforcement records. The clerk shall deliver a  
10 certified copy of the expungement order to the Department of  
11 State Police and the arresting agency. Upon request, the  
12 State's Attorney shall furnish the name of the arresting  
13 agency. The expungement shall be completed within 60 business  
14 days after the receipt of the expungement order.

15 (b) If the chief law enforcement officer of the agency, or  
16 his or her designee, certifies in writing that certain  
17 information is needed for a pending investigation involving the  
18 commission of a felony, that information, and information  
19 identifying the juvenile, may be retained until the statute of  
20 limitations for the felony has run. If the chief law  
21 enforcement officer of the agency, or his or her designee,  
22 certifies in writing that certain information is needed with  
23 respect to an internal investigation of any law enforcement  
24 office, that information and information identifying the  
25 juvenile may be retained within an intelligence file until the  
26 investigation is terminated or the disciplinary action,

1 including appeals, has been completed, whichever is later.  
2 Retention of a portion of a juvenile's law enforcement record  
3 does not disqualify the remainder of his or her record from  
4 immediate automatic expungement.

5 (0.3) (a) Upon an adjudication of delinquency based on any  
6 offense except a disqualified offense, the juvenile court shall  
7 automatically order the expungement of the juvenile court and  
8 law enforcement records 2 years after the juvenile's case was  
9 closed if no delinquency or criminal proceeding is pending and  
10 the person has had no subsequent delinquency adjudication or  
11 criminal conviction. The clerk shall deliver a certified copy  
12 of the expungement order to the Department of State Police and  
13 the arresting agency. Upon request, the State's Attorney shall  
14 furnish the name of the arresting agency. The expungement shall  
15 be completed within 60 business days after the receipt of the  
16 expungement order. In this subsection (0.3), "disqualified  
17 offense" means any of the following offenses: Section 8-1.2,  
18 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.2, 10-1, 10-2, 10-3, 10-3.1,  
19 10-4, 10-5, 10-9, 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60,  
20 11-6, 11-6.5, 12-2, 12-3.05, 12-3.3, 12-4.4a, 12-5.02, 12-6.2,  
21 12-6.5, 12-7.1, 12-7.5, 12-20.5, 12-32, 12-33, 12-34, 12-34.5,  
22 18-1, 18-2, 18-3, 18-4, 18-6, 19-3, 19-6, 20-1, 20-1.1, 24-1.2,  
23 24-1.2-5, 24-1.5, 24-3A, 24-3B, 24-3.2, 24-3.8, 24-3.9,  
24 29D-14.9, 29D-20, 30-1, 31-1a, 32-4a, or 33A-2 of the Criminal  
25 Code of 2012, or subsection (b) of Section 8-1, paragraph (4)  
26 of subsection (a) of Section 11-14.4, subsection (a-5) of

1 Section 12-3.1, paragraph (1), (2), or (3) of subsection (a) of  
2 Section 12-6, subsection (a-3) or (a-5) of Section 12-7.3,  
3 paragraph (1) or (2) of subsection (a) of Section 12-7.4,  
4 subparagraph (i) of paragraph (1) of subsection (a) of Section  
5 12-9, subparagraph (H) of paragraph (3) of subsection (a) of  
6 Section 24-1.6, paragraph (1) of subsection (a) of Section  
7 25-1, or subsection (a-7) of Section 31-1 of the Criminal Code  
8 of 2012.

9 (b) If the chief law enforcement officer of the agency, or  
10 his or her designee, certifies in writing that certain  
11 information is needed for a pending investigation involving the  
12 commission of a felony, that information, and information  
13 identifying the juvenile, may be retained in an intelligence  
14 file until the investigation is terminated or for one  
15 additional year, whichever is sooner. Retention of a portion of  
16 a juvenile's juvenile law enforcement record does not  
17 disqualify the remainder of his or her record from immediate  
18 automatic expungement.

19 (0.4) Automatic expungement for the purposes of this  
20 Section shall not require law enforcement agencies to  
21 obliterate or otherwise destroy juvenile law enforcement  
22 records that would otherwise need to be automatically expunged  
23 under this Act, except after 2 years following the subject  
24 arrest for purposes of use in civil litigation against a  
25 governmental entity or its law enforcement agency or personnel  
26 which created, maintained, or used the records. However, l these

1 juvenile law enforcement records shall be considered expunged  
2 for all other purposes during this period and the offense,  
3 which the records or files concern, shall be treated as if it  
4 never occurred as required under Section 5-923.

5 (0.5) Subsection (0.1) or (0.2) of this Section does not  
6 apply to violations of traffic, boating, fish and game laws, or  
7 county or municipal ordinances.

8 (0.6) Juvenile law enforcement records of a plaintiff who  
9 has filed civil litigation against the governmental entity or  
10 its law enforcement agency or personnel that created,  
11 maintained, or used the records, or juvenile law enforcement  
12 records that contain information related to the allegations set  
13 forth in the civil litigation may not be expunged until after 2  
14 years have elapsed after the conclusion of the lawsuit,  
15 including any appeal.

16 (0.7) Officer-worn body camera recordings shall not be  
17 automatically expunged except as otherwise authorized by the  
18 Law Enforcement Officer-Worn Body Camera Act.

19 (1) Whenever a person has been arrested, charged, or  
20 adjudicated delinquent for an incident occurring before his or  
21 her 18th birthday that if committed by an adult would be an  
22 offense, and that person's juvenile law enforcement and  
23 juvenile court records are not eligible for automatic  
24 expungement under subsection (0.1), (0.2), or (0.3), the person  
25 may petition the court at any time for expungement of juvenile  
26 law enforcement records and juvenile court records relating to

1 the incident and, upon termination of all juvenile court  
2 proceedings relating to that incident, the court shall order  
3 the expungement of all records in the possession of the  
4 Department of State Police, the clerk of the circuit court, and  
5 law enforcement agencies relating to the incident, but only in  
6 any of the following circumstances:

7 (a) the minor was arrested and no petition for  
8 delinquency was filed with the clerk of the circuit court;

9 (a-5) the minor was charged with an offense and the  
10 petition or petitions were dismissed without a finding of  
11 delinquency;

12 (b) the minor was charged with an offense and was found  
13 not delinquent of that offense;

14 (c) the minor was placed under supervision under  
15 Section 5-615, and the order of supervision has since been  
16 successfully terminated; or

17 (d) the minor was adjudicated for an offense which  
18 would be a felony or a misdemeanor ~~Class B misdemeanor,~~  
19 ~~Class C misdemeanor,~~ or a petty or business offense if  
20 committed by an adult.

21 (1.5) The Department of State Police shall allow a person  
22 to use the Access and Review process, established in the  
23 Department of State Police, for verifying that his or her  
24 juvenile law enforcement records relating to incidents  
25 occurring before his or her 18th birthday eligible under this  
26 Act have been expunged.

1 (1.6) (Blank).

2 (1.7) (Blank).

3 (1.8) (Blank).

4 (2) Any person whose delinquency adjudications are not  
5 eligible for automatic expungement under subsection (0.3) of  
6 this Section may petition the court to expunge all juvenile law  
7 enforcement records relating to any incidents occurring before  
8 his or her 18th birthday which did not result in proceedings in  
9 criminal court and all juvenile court records with respect to  
10 any adjudications except those based upon first degree murder  
11 or an offense under Article 11 of the Criminal Code of 2012 if  
12 the person is required to register under the Sex Offender  
13 Registration Act at the time he or she petitions the court for  
14 expungement; provided that: ~~(a) (blank); or (b)~~ 2 years have  
15 elapsed since all juvenile court proceedings relating to him or  
16 her have been terminated and his or her commitment to the  
17 Department of Juvenile Justice under this Act has been  
18 terminated.

19 (2.5) If a minor is arrested and no petition for  
20 delinquency is filed with the clerk of the circuit court at the  
21 time the minor is released from custody, the youth officer, if  
22 applicable, or other designated person from the arresting  
23 agency, shall notify verbally and in writing to the minor or  
24 the minor's parents or guardians that the minor shall have an  
25 arrest record and shall provide the minor and the minor's  
26 parents or guardians with an expungement information packet,

1 information regarding this State's expungement laws including  
2 a petition to expunge juvenile law enforcement and juvenile  
3 court records obtained from the clerk of the circuit court.

4 (2.6) If a minor is referred to court, then, at the time of  
5 sentencing, ~~or~~ dismissal of the case, or successful completion  
6 of supervision, the judge shall inform the delinquent minor of  
7 his or her rights regarding expungement and the clerk of the  
8 circuit court shall provide an expungement information packet  
9 to the minor, written in plain language, including information  
10 regarding this State's expungement laws and a petition for  
11 expungement, a sample of a completed petition, expungement  
12 instructions that shall include information informing the  
13 minor that (i) once the case is expunged, it shall be treated  
14 as if it never occurred, (ii) he or she may apply to have  
15 petition fees waived, (iii) once he or she obtains an  
16 expungement, he or she may not be required to disclose that he  
17 or she had a juvenile law enforcement or juvenile court record,  
18 and (iv) if petitioning he or she may file the petition on his  
19 or her own or with the assistance of an attorney. The failure  
20 of the judge to inform the delinquent minor of his or her right  
21 to petition for expungement as provided by law does not create  
22 a substantive right, nor is that failure grounds for: (i) a  
23 reversal of an adjudication of delinquency; ~~or~~ (ii) a new trial;  
24 or (iii) an appeal.

25 (2.7) (Blank).

26 (2.8) (Blank).

1 (3) (Blank).

2 (3.1) (Blank).

3 (3.2) (Blank).

4 (3.3) (Blank).

5 (4) (Blank).

6 (5) (Blank).

7 (5.5) Whether or not expunged, records eligible for  
8 automatic expungement under subdivision (0.1) (a), (0.2) (a), or  
9 (0.3) (a) may be treated as expunged by the individual subject  
10 to the records.

11 (6) (Blank).

12 (6.5) The Department of State Police or any employee of the  
13 Department shall be immune from civil or criminal liability for  
14 failure to expunge any records of arrest that are subject to  
15 expungement under this Section because of inability to verify a  
16 record. Nothing in this Section shall create Department of  
17 State Police liability or responsibility for the expungement of  
18 juvenile law enforcement records it does not possess.

19 (7) (Blank).

20 (7.5) (Blank).

21 ~~(8) (a) (Blank).~~ ~~(b) (Blank).~~ ~~(c)~~ The expungement of  
22 juvenile law enforcement or juvenile court records under  
23 subsection (0.1), (0.2), or (0.3) of this Section shall be  
24 funded by appropriation by the General Assembly for that  
25 purpose.

26 (9) (Blank).

1 (10) (Blank).

2 (Source: P.A. 99-835, eff. 1-1-17; 99-881, eff. 1-1-17;  
3 100-201, eff. 8-18-17; 100-285, eff. 1-1-18; 100-720, eff.  
4 8-3-18; 100-863, eff. 8-14-18; 100-987, eff. 7-1-19; 100-1162,  
5 eff. 12-20-18; revised 7-16-19.)